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10/777,479	02/12/2004	Katsuhito Aoki	HGM-127-A	2304
21828 7590 11/09/2007 CARRIER BLACKMAN AND ASSOCIATES 24101 NOVI ROAD SUITE 100 NOVI, MI 48375			EXAMINER FRISBY, KESHA	
			ART UNIT 3714	PAPER NUMBER
			NOTIFICATION DATE 11/09/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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cbalaw@ameritech.net  
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## Office Action Summary

Application No.

10/777,479

Applicant(s)

AOKI ET AL.

Examiner

Kesha Frisby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/5/2007 has been entered.

### ***Status of Claims***

***After the request for continued examination was filed on 10/5/2007, claims 1-16 are pending.***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9 & 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner is unable to find support in the original filed specification wherein the selected input devices perform two different sets of functions.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-3 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (Publication Number 2002-297017: Machine Translation from Patents Abstract of Japan) in view of Adam et al. (U.S. Patent Number 6,010,403) and Goodyear (U.S. Patent Number 6,311,041).**

Referring to claim 1, Aoki et al. discloses an interactive driving simulation (driving simulator) which allows a student operator (Rider/operator) to simulate driving a two-wheeled vehicle (paragraph 0003, Drawing 1 & riding simulation equipment 10), wherein said apparatus is operable to display a virtual environment as a screen image on a display unit based on a real-time driving routine of a simulated vehicle by the student operator (paragraph 0012: virtual experience), and wherein said apparatus is capable of recording a driving route sequence (paragraph 0012: storage means) and replaying the driving route sequence on said display unit after the real-time driving routine is completed (paragraph 0015, 0016, 0022 & 0025: playback). *Aoki et al. does not disclose said driving simulation apparatus comprising: a selector which selects selecting performance evaluation comments based on operator input in a simulated driving route sequence, by the driving operation of the operator in a driving route sequence determined in advance in a running route upon the simulation apparatus, and*

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*wherein the display unit comprises a screen which simultaneously displays the simulated operating environment and the superimposed written text of performance evaluation comments when the driving situation is replayed on said display unit.*

However, Adam et al. teaches said driving simulation apparatus comprising: a selector which selects selecting performance evaluation comments based on operator input in a simulated driving route sequence, by the driving operation of the operator in a driving route sequence determined in advance in a running route upon the simulation apparatus (column 5 lines 47-53 & column 6 lines 9-12), and wherein the display unit comprises a screen which simultaneously displays the simulated operating environment and the performance evaluation comments when the driving situation is replayed on said display unit (column 5 line 64-column 6 lines 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a selector, as disclosed by Adam et al., incorporated into Aoki et al. in order to include the announcer's verbal commentary. *Aoki et al./Adam et al. does not disclose superimposed written text.* However, Goodyear teaches superimposed written text (column 3 lines 34-45 & column 7 lines 51-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include superimposed written text, as disclosed by Goodyear, incorporated into, Aoki et al./Adam et al. in order to learn from the review of the game segment.

Referring to claim 2, Aoki et al., as modified by Adam et al. and Goodyear, discloses wherein said selector selects only a scene at which an unsafe action was performed by the operator within the simulated driving route sequence, and matches performance

evaluation comments corresponding to said scene at which an unsafe action was performed to the operator's recorded performance (column 6 lines 5-12 of Aoki et al.), and wherein said display screen displays only the scene at which the unsafe action was performed and the performance evaluation comments (video display of Aoki et al.).

Referring to claim 3, Aoki et al., as modified by Adam et al. and Goodyear, discloses further comprising: a speaker (overhead speaker 14 of Adam et al.) for reading the performance evaluation commentary aloud upon reproduction thereof on said display unit.

Referring to claim 6, Aoki et al., as modified by Adam et al. and Goodyear, discloses wherein the apparatus is operable without requiring input from any person other than the student operator during testing (rider/operator of Aoki et al.) and replay (playback means of Aoki et al.).

**4. Claims 4 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al./Adam et al./Goodyear and further in view of Scott et al. (U.S. Publication Number 2004/0009812).**

Referring to claim 4, Aoki et al./Adam et al./Goodyear discloses an interactive driving simulation apparatus according to claim 1 and in which the simulated operating environment and the performance evaluation commentary are simultaneously displayed thereon (see claim 1). *Aoki et al./Adam et al./Goodyear does not disclose wherein: said display unit is operable to pause the replay and to display a still-screen image.*

However, Scott et al. teaches wherein: said display unit is operable to pause the replay (paragraph 0029) and to display a still-screen image (inherent function of pause: when

you pause an image the display has a still-screen image). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include pause the replay, as disclosed by Scott et al., incorporated into Aoki et al./Adam et al./Goodyear in order for the instructor to discuss the driving situation with the user.

Referring to claim 5, Aoki et al./Adam et al./Goodyear discloses an interactive driving simulation apparatus according to claim 1. *Aoki et al./Adam et al./Goodyear does not disclose wherein: said display unit reproduces a screen image recorded during a real-time simulation at a normal replay speed or temporarily pauses the replay and displays a still-screen image at a selected driving situation obtained from the driving route sequence, and performs fast-feeding replay or skipping replay at scenes other than the selected driving situation.* However, Scott teaches wherein: said display unit (visual display 15) reproduces a screen image recorded during a real-time simulation at a normal replay speed or temporarily pauses the replay (paragraph 0029) and displays a still-screen image at a selected driving situation (inherent function of pause: when you pause an image the display has a still-screen image), and performs fast-feeding replay or skipping replay at scenes other than the selected driving situation (fast-forward). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the limitations of the display unit, as disclosed by Scott, incorporated into Aoki et al./Adam et al./Goodyear in order to analyze the driving situation.

**5. Claims 7, 8 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (U.S. Patent Number 5,415,550) in view of Adam et al., Goodyear and Aoki et al. (2002-297017).**

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Referring to claim 7, Aoki et al. ('550) discloses an electromechanical simulator (simulated motorcycle 300) which interacts with the student operator (rider) during performance of a driving route sequence, said electromechanical simulator comprising a support frame (body frame 302), a handlebar operatively connected to the support frame (steering handle 308), a pedal mechanism operatively connected to the support frame (inherent component of a motorcycle), and a plurality of sensors (column 5 lines 48-55) for measuring student input and for generating data corresponding to a specific performance by the student operator; a processor which compares comparing the specific performance data to a set of base line performance data, the comparison of the specific performance data with the base line performance data (column 20 lines 51-66) and wherein a virtual environment is displayed as a screen image on the display unit based on a real-time driving route sequence of a simulated vehicle by the student operator (Figs. 9A & 9B & the associated text). *Aoki et al. ('550) does not disclose a recorder which records recording the specific performance data; and for selecting performance evaluation comments based on the comparison of the specific performance data with the base line performance data, a display unit comprising a display screen which simultaneously displays the simulated operating environment and the superimposed written text of performance evaluation comments when a portion of the driving route sequence is replayed on said display unit for each testing situation in which the operator's responses fail to perform at or above a specified level, wherein said apparatus is capable of recording a specific performance of a driving routine and replaying the specific performance on said display unit after the real-time driving routine*



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*is completed.* However, Adam et al. teaches a display unit comprising selecting performance evaluation comments (column 5 lines 47-53 & column 6 lines 9-12), a display screen (column 5 lines 47-53 & column 6 lines 9-12) which simultaneously displays the simulated operating environment and produces audible comments when a portion of the driving route sequence is replayed on said display unit for each testing situation in which the operator's responses fail to perform at or above a specified level (column 5 line 64-column 6 line 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a display unit, as disclosed by Adam et al., incorporated into Aoki et al. ('550) in order to have the ability to view the simulation. *Aoki et al./Adam et al. does not teach a display unit displaying superimposed written text.* However, Goodyear teaches superimposed written text (column 3 lines 34-45 & column 7 lines 51-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include superimposed written text, as disclosed by Goodyear, incorporated into, Aoki et al./Adam et al. in order to learn from the review of the game segment. *Aoki et al./Adam et al./Goodyear does not disclose a recorder which records the specific performance data, wherein said apparatus is capable of recording a specific performance of a driving routine and replaying the specific performance on said display unit after the real-time driving routine is completed.* Adam et al. does disclose the use of playback (column 7 lines 43-48). With the use of playback, the device is also capable of recording. However, Aoki et al. (2002-297017) teaches a recorder which records the specific performance data (storage means), wherein said apparatus is capable of recording a specific performance of a

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driving routine (storage means) and replaying the specific performance on said display unit after the real-time driving routine is completed (playback). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include recording and playback, as disclosed by Aoki et al. (2002-297017), incorporated into Aoki et al. ('550)/Adam et al. in order to memorize the current game state, as well as, present the game state to other individuals who might not be playing the game.

Referring to claim 8, Aoki et al. ('550), as modified by Adam et al., Goodyear and Aoki et al. (2002-297017), teaches wherein the apparatus is operable without requiring input from any person other than the student operator during testing (Rider/Operator of Aoki et al. (2002-297017)) and replay (playback means of Aoki et al. (2002-297017)).

Referring to claim 10, Aoki et al. ('550), as modified by Adam et al., Goodyear and Aoki et al. (2002-297017), discloses further comprising a speaker for generating an audible reproduction of the selected performance evaluation comments (column 4 lines 65-67 of Aoki et al. ('550)).

**8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. ('550), Adam et al./Goodyear/Aoki et al. (2002-297017) and further in view of Cooperman ('547).**

Referring to claim 9, However, Aoki et al. ('550), as modified by Adam et al., Goodyear and Aoki et al. (2002-297017) discloses the driving simulation apparatus of claim 7.

*Aoki et al. ('550), as modified by Adam et al., Goodyear and Aoki et al. (2002-297017) does not disclose wherein selected input devices of the input devices of the electromechanical simulator are operable to perform a first set of functions during*

*performance of a real-time driving route sequence by a student operator, and wherein the selected input devices are operable to perform a second set of functions which is different from the first set of functions during playback of a recorded performance.*

However, Cooperman teaches wherein selected input devices of the input devices of the electromechanical simulator are operable to perform a first set of functions during performance of a real-time driving route sequence by a student operator (column 12 lines 32-43), and wherein the selected input devices are operable to perform a second set of functions which is different from the first set of functions during playback of a recorded performance (if the order in which the inputs are selected will result in performing a second set of functions). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include selected input devices, as disclosed by Cooperman, incorporated into Aoki et al. ('550), as modified by Adam et al., Goodyear and Aoki et al. (2002-297017) in order to perform different maneuvers.

**9. Claims 11 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huston et al. (U.S. Patent Number 6,146,143) in view of Aoki et al. (U.S. Patent Number 5,415,550) and Goodyear.**

Referring to claim 11, Huston et al. a) generating a prerecorded driving simulation course including a plurality of testing situations on a display screen of a driving simulator (column 2 lines 4-6), b) recording the operator's real-time responses to each testing situation on a computer memory (column 8 lines 37-56) and d) replaying selected scenes from the simulation course on the display screen (column 8 lines 40-42). *Huston et al. does not disclose c) comparing the operator's responses to*

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*prerecorded base line data and d) replaying selected scenes from the simulation course on the display screen superimposed with selected written text of performance evaluation comments corresponding to the operator's recorded responses, for each testing situation in which the operator's responses fail to perform at or above a specified level.* However, Aoki et al. teaches c) comparing the operator's responses to prerecorded base line data (column 20 lines 51-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include comparing, as disclosed by Aoki et al., incorporated into Huston et al. in order to grade the rider on their performance. *Huston et al./Aoki et al. does not disclose d) replaying selected scenes from the simulation course on the display screen superimposed with selected performance evaluation comments corresponding to the operator's recorded responses, for each testing situation in which the operator's responses fail to perform at or above a specified level.* However, Goodyear teaches d) replaying selected scenes from the simulation course on the display screen superimposed with selected performance evaluation comments corresponding to the operator's recorded responses, for each testing situation in which the operator's responses fail to perform at or above a specified level (column 3 lines 34-45 & column 7 lines 51-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include replaying, as disclosed by Goodyear, incorporated into Huston et al./Aoki et al. in order to show the user the problems that were made during riding, as well as, learn from the review of the game segment.

Referring to claim 13, Huston et al., as modified Aoki et al. and Goodyear, teaches further comprising a step of generating an audible performance evaluation commentary upon visual reproduction thereof on said display unit (column 7 lines 51-57 of Goodyear).

**10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huston et al./Aoki et al./Goodyear and further in view of Aoki et al. (2002-297017).**

Referring to claim 12, Huston et al./Aoki et al./Goodyear discloses the method of claim 11. *Huston et al./Aoki et al./Goodyear does not disclose wherein the method is performable without requiring input from any person other than the student operator during testing and replay.* However, Aoki et al. (2002-297017) teaches wherein the method is performable without requiring input from any person other than the student operator during testing (rider/operator) and replay (playback means). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include wherein the apparatus is operable without requiring input from any person other than the student operator during testing and testing, as disclosed by Aoki et al. (2002-297017), incorporated into Huston et al./Aoki et al./Goodyear so that the user has full control of how the simulator works.

**11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huston et al./Aoki et al./Goodyear and further in view of Scott et al. (U.S. Publication Number 2004/0009812).**

Referring to claim 14, Huston et al./Aoki et al./Goodyear discloses the method of claim 11 and in when the simulated operating environment and the performance evaluation

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commentary are simultaneously displayed thereon (see claim 1). *Huston et al./Aoki et al./Goodyear does not disclose wherein the replay is paused to display a still-screen image*. In addition, since the apparatus displays the environment and commentary simultaneously and has the ability to playback this information, the information can be paused. However, *Scott et al. teaches wherein the replay is paused to display a still-screen image* (paragraph 0029) (inherent function of pause: when you pause an image the display has a still-screen image). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include pause the replay, as disclosed by *Scott et al.*, incorporated into *Huston et al./Aoki et al./Goodyear* in order for the instructor to discuss the driving situation with the user.

**12. Claims 15 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adam et al. in view of Aoki et al. (2002-297017), Goodyear, Aoki et al. (5,415,550) and Cooperman (U.S. Patent Number 5,660,547).**

Referring to claims 15 & 16, *Adam et al.* discloses an interactive driving simulation apparatus (interactive event system 10) which allows a student operator (driver) to simulate driving a two-wheeled vehicle (simulation race car), wherein said apparatus displays a virtual environment as a screen image on a display unit, based on a real-time performance of a driving operation of a simulated vehicle by the student operator (video display & column 4 lines 55 & 56), a selector which selects performance evaluation comments based on operator input in a simulated driving route sequence, by the driving operation of the operator in a driving route sequence determined in advance in a running route upon the simulation apparatus (column 5 lines 47-53 & column 6 lines 9-

12), and wherein the display unit comprises a screen which simultaneously displays both the simulated operating environment and the performance evaluation comments to the student operator when the driving route sequence is replayed on said display unit (column 5 line 64 – column 6 line 12), the interactive driving simulator apparatus further comprises a pre-stored selection of performance evaluation comments (column 5 lines 47-53 & column 6 lines 9-13), and wherein the selector selects an appropriate one of the performance evaluation comments from the pre-stored plurality of performance evaluation comments based on the student operators performance during the driving route sequence (column 5 line 64 – column 6 line 12) (claim 16). *Adam et al. does not disclose wherein said apparatus records a driving route sequence and replays the driving route sequence on said display unit after the real-time performance of a driving operation is completed, said driving simulation apparatus comprising: an electromechanical simulator with which the student operator interacts during the real-time performance of a driving operation, the electromechanical simulator including input devices actuated by the student operator during the real-time performance of a driving operation. Adam et al. does disclose the use of playback (column 7 lines 43-48). With the use of playback, the device is also capable of recording. However, Aoki et al. (2002-297017) teaches wherein said apparatus records a driving route sequence (storage means) and replays the driving route sequence on said display unit after the real-time performance of a driving operation is completed (playback). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include recording and playback, as disclosed by Aoki et al. (2002-297017), incorporated*

into Adam et al. in order to memorize the current game state, as well as, present the game state to other individuals who might not be playing the game. *Adam et al./Aoki et al. (2002-297017) does not disclose superimposed written text, said driving simulation apparatus comprising: an electromechanical simulator with which the student operator interacts during the real-time performance of a driving operation, the electromechanical simulator including input devices actuated by the student operator during the real-time performance of a driving operation.* However, Goodyear teaches superimposed written text (column 3 lines 34-45 & column 7 lines 51-57). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include superimposed written text, as disclosed by Goodyear, incorporated into, Adam et al./Aoki et al. (2002-297017) in order to learn from the review of the game segment. *Adam et al./Aoki et al. (2002-297017) does not disclose said driving simulation apparatus comprising: an electromechanical simulator with which the student operator interacts during the real-time performance of a driving operation, the electromechanical simulator including input devices actuated by the student operator during the real-time performance of a driving operation.* However, Aoki et al. ('550) teaches said driving simulation apparatus comprising: an electromechanical simulator (simulated motorcycle 300) with which the student operator interacts during the real-time performance of a driving operation (rider), the electromechanical simulator including input devices actuated by the student operator during the real-time performance of a driving operation (input interface 13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an electromechanical simulator, as disclosed by Aoki et al. ('550),



incorporated into Adam et al./Aoki et al. (2002-297017)/Goodyear in order to simulate actual vehicles, such as, a motorcycle. *Adam et al./Aoki et al. (2002-297017)/Goodyear/Aoki et al. does not disclose wherein selected input devices of the input devices of the electromechanical simulator are operable to perform a first set of functions during performance of a real-time driving route sequence by a student operator, and wherein the selected input devices are operable to perform a second set of functions which is different from the first set of functions during playback of a recorded performance.* However, Cooperman teaches wherein selected input devices of the input devices of the electromechanical simulator are operable to perform a first set of functions during performance of a real-time driving route sequence by a student operator (column 12 lines 32-43), and wherein the selected input devices are operable to perform a second set of functions which is different from the first set of functions during playback of a recorded performance (if the order in which the inputs are selected will result in performing a second set of functions). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include selected input devices, as disclosed by Cooperman, incorporated into Adam et al./Aoki et al. (2002-297017)/Goodyear/Aoki et al. ('550) in order to perform different maneuvers.

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

14. Applicant's arguments filed 10/5/2007 have been fully considered but they are not persuasive. In regards to the applicant's argument of teaching away on pages 9 & 10 of

the remarks, the applicant states that the audio commentary teaches away from the text display as disclosed in the Applicant's invention. Although, in Adam et al. audio commentary might be preferred there is no recitation in the Adam et al. that states that the commentary is limited to audio. The Applicant's determination of displaying text on the screen has been provided on the top of page 10. This determination is not found in the disclosure of Adam et al.; therefore this argument is moot. In response to applicant's argument that Scott (U.S. Patent Publication Number 2004/0009812) is nonanalogous art (pages 11, 12 & 21 of remarks), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the prior art Scott is in the field of the applicant's endeavor; therefore the Scott is analogous art. In addition, the applicant argues that Adam et al. does not teach replaying a driving route sequence for a situation where the operator has failed to achieve a specific level of performance (page 15 of the remarks), it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masha*, 2 USPQ2d 1647 (1987). Now, the applicant argues on page 16, that Aoki et al. (JP 2002-297017) does not disclose a recorder, which records operator performance data and is capable of replaying specific parts of the driving routine based on the performance data recorded. Aoki et al. discloses in paragraph 0012, "a storage

means to memorize condition data including the run state of said simulation car”.

Therefore Aoki et al. discloses a recorder, which records operator performance data. In addition, it has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

#### ***Citation of Pertinent Prior Art***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Barwick (U.S. Patent Number 4,459,114) teaches a simulation system trainer.

Adams (U.S. Patent Number 5,131,848) teaches a testing method an apparatus.

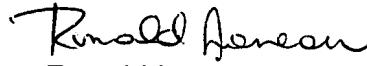
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kesha Frisby whose telephone number is 571-272-8774. The examiner can normally be reached on Mon. - Wed. 7-3pm & Thurs. - Fri. 7-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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